

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

RCB INTERNATIONAL, LTD.,

Plaintiffs,

v.

LABBEEMINT, INC.,

Defendants.

NO. 1:16-cv-03109-SAB

**ORDER GRANTING  
DEFENDANT'S MOTION FOR  
PROTECTIVE ORDER  
STAYING DISCOVERY**

Before the Court is Labbeemint's Motion for Protective Order Staying Discovery Until the Motion to Dismiss Amended Complaint is Resolved. ECF No. 37. The motion was heard without oral argument and on an expedited basis.

Labbeemint moves to stay discovery until its motion to dismiss is resolved. The motion to dismiss argues that federal patent law preempts all of RCB's claims. ECF No. 34. Labbeemint argues that discovery sought by RCB is not needed in order for RCB to respond, or for the Court to decide, the motion to dismiss because the preemption argument is purely legal. In particular, RCB is seeking to ascertain how Labbeemint acquired the Erospicata mint plant. RCB believes discovery is necessary at this time in order to support a motion for a preliminary injunction, to identify third parties to enjoin from further distributing the plant, to timely add such parties to this suit, and to obtain a speedy hearing on its first claim for declaratory judgment. According to RCB, it will be prejudiced by a discovery stay because the Erospicata mint plant is being distributed, damaging RCB's

1 economic interests. RCB also asserts its theft and conversion claims are not  
2 preempted by patent law.

3       This court has broad discretion to order or limit the scope of discovery. *See*  
4 Fed. R. Civ. P. 26. Specifically, this Court can issue a protective order dictating  
5 the timing of discovery upon a showing of good cause to protect a party from  
6 annoyance, embarrassment, oppression, or undue burden or expense. Fed. R. Civ.  
7 P. 26(c). Here, Labbeemint has shown good cause that discovery is an undue  
8 burden at this juncture. Labbeemint's motion to dismiss turns on legal questions  
9 which do not require discovery to produce responsive briefing. Although RCB  
10 may have good reason for seeking to learn how Labbeemint acquired the  
11 Erospicata mint plant, it is unclear how such information is necessary to  
12 adequately respond to Labbeemint's motion, or why it is entitled to depose  
13 Labbeemint for that information at this time. Additionally, Rule 26(d) indicates  
14 that generally a party may not seek discovery from any source before the parties  
15 have satisfied the requirements of Rule 26(f), and the record here does not indicate  
16 that the parties have met those requirements. Discovery is premature, and  
17 accordingly, it shall be stayed pending the resolution of Labbeemint's Rule  
18 12(b)(6) motion to dismiss. ECF No. 34.

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**ORDER GRANTING DEFENDANT'S MOTION FOR  
PROTECTIVE ORDER STAYING DISCOVERY # 2**

Accordingly, **IT IS HEREBY ORDERED:**

1. Labbeemint's Motion for Protective Order Staying Discovery Until the Motion to Dismiss Amended Complaint is Resolved, ECF No. 37, is **GRANTED**.
2. Discovery in this matter is hereby **STAYED** until the resolution of Labbeemint's motion to dismiss at ECF No. 34.

**IT IS SO ORDERED.** The District Court Executive is hereby directed to file this Order and provide copies to counsel.

**DATED** this 15th day of August 2016.



A handwritten signature in blue ink that reads "Stanley A. Bastian". The signature is fluid and cursive, written over a horizontal line.

Stanley A. Bastian  
United States District Judge